

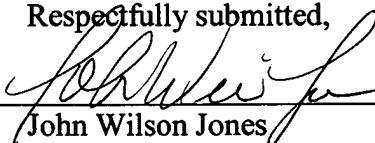
Office Action.) Applicants respectfully disagree.

Independent Claims 1, 30, 56, and 57 of Group I require the presence of a polymer having a "first subunit comprising a first nucleic acid, wherein said first subunit is incorporated into said polymer using a first subunit precursor comprising said first nucleic acid and an ethylene-containing moiety." The product disclosed in U.S. Patent No. 5,932,711 ("*Boles*") is *not* incorporated into a polymer. *Boles*, on the other hand, discloses a polymerizable complex of an ethylene-containing monomer unit covalently linked to a nucleic acid molecule. As stated in lines 44-45 of column 4 of *Boles*, the "polymerized layer acts as a solid matrix which anchors the nucleic acid molecules to a defined locus. . . ." As illustrated in the Examples of column 14, the product of *Boles* is embedded into a matrix, such as an acrylamide matrix.

The Examiner is further requested to reconsider the requirement for restriction because a single inventive concept runs through all of the claims of Groups I and II. This single inventive concept is the polymer of Group I useful in the treatment of medical conditions. The Examiner will undoubtedly have to consult with the art directed to the claimed product in the rendering of any opinion on the patentability of the method claims. Applicants, therefore, respectfully request the Examiner to reconsider the restriction requirement especially in view of the Official Gazette Notice of March 26, 1996, which establishes guidelines for the proper treatment of product and method claims in light of *In re Ochiai*, 37 U.S.P.Q. 2d 1127 (Fed. Cir. 1995) and *In re Brower*, 37 U.S.P.Q. 2d 1663 (Fed. Cir. 1996).

Dated: May 7, 2003

Respectfully submitted,


  
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**CERTIFICATE OF MAILING UNDER 37 CFR 1.8**

I hereby certify this correspondence is being deposited on this 7<sup>th</sup> day of May, 2003, under 37 CFR 1.8, with the United States Postal Service as First Class Mail in an envelope addressed to: MAIL STOP DD, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: May 7, 2003

  
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Jana Walraven



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